



Reprinted
February 26, 2003

HOUSE BILL No. 1757

DIGEST OF HB 1757 (Updated February 25, 2003 12:13 PM - DI 107)

Citations Affected: IC 5-10; IC 12-15; IC 25-26; IC 27-8; IC 27-13; noncode.

Synopsis: Regulation of pharmacy technicians. Establishes a certification program for pharmacy technicians and a permit program for pharmacy technicians in training. Requires a person to be certified to practice as a pharmacy technician. Adds provisions concerning the designation of mail order and Internet based pharmacies by certain health plans.

Effective: July 1, 2003.

Klinker, Orentlicher, Becker

January 21, 2003, read first time and referred to Committee on Public Health.
February 10, 2003, amended, reported — Do Pass. Recommitted to Committee on Ways and Means.
February 19, 2003, amended, reported — Do Pass.
February 25, 2003, read second time, amended, ordered engrossed.

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HB 1757—LS 7650/DI 107+



First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1757

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10-8-13 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]: **Sec. 13. (a) As used in this section, "covered individual"**
4 **means an individual who is entitled to coverage under an employee**
5 **health benefit plan.**

6 **(b) As used in this section, "employee health benefit plan"**
7 **means a group plan of self-insurance, policy, or contract that:**

8 **(1) provides coverage for prescription drugs; and**

9 **(2) is established, purchased, or entered into by an employer**
10 **for the benefit of the employer's employees.**

11 **(c) As used in this section, "employer" means the following:**

12 **(1) A public employer.**

13 **(2) A state educational institution (as defined in**
14 **IC 20-12-0.5-1).**

15 **(d) As used in this section, "mail order or Internet based**
16 **pharmacy" has the meaning set forth in IC 25-26-18-1.**

17 **(e) An employee health benefit plan that provides coverage for**

HB 1757—LS 7650/DI 107+



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prescription drugs may designate a mail order or an Internet based pharmacy to provide prescription drugs to a covered individual.

(f) An employee health benefit plan may not require a covered individual to obtain a prescription drug from a pharmacy designated under subsection (e) as a condition of coverage.

SECTION 2. IC 12-15-5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The office or a managed care organization that has a contract with the office under IC 12-15-12 may designate a mail order or an Internet based pharmacy (as defined in IC 25-26-18-1) to provide prescription drugs to a recipient.

(b) The office or a managed care organization described in subsection (a) may not require a recipient to obtain a prescription drug from a pharmacy designated under subsection (a).

SECTION 3. IC 25-26-19 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 19. Regulation of Pharmacy Technicians

Sec. 1. As used in this chapter, "board" refers to the Indiana board of pharmacy established by IC 25-26-13-3.

Sec. 2. As used in this chapter, "pharmacy technician" means an individual who:

- (1) works under the direct supervision of a pharmacist licensed under this article; and
- (2) performs duties to assist a pharmacist in activities that do not require the professional judgment of a pharmacist.

Sec. 3. As used in this chapter, "pharmacy technician in training" means a person who is enrolled in a training program for pharmacy technicians prescribed by the board.

Sec. 4. (a) The board may adopt rules under IC 4-22-2 to:

- (1) implement and enforce this chapter;
- (2) set fees under IC 25-1-8; and
- (3) establish education and training requirements for certification to practice as a pharmacy technician.

(b) The board shall:

- (1) establish standards for the competent practice of pharmacy technicians; and
- (2) subject to IC 4-21.5, IC 25-1-7, and IC 25-1-9, conduct proceedings on any matter under the jurisdiction of the board.

Sec. 5. (a) The board shall issue a pharmacy technician certificate to an individual who:

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(1) applies to the board in the form and manner prescribed by the board;

(2) is at least eighteen (18) years of age;

(3) has not been convicted of a crime that has a direct bearing upon the individual's ability to practice competently;

(4) is not in violation of this chapter or rules adopted by the board under section 4 of this chapter;

(5) has paid the fee set by the board under section 4 of this chapter; and

(6) has completed a program of education and training approved by the board or has passed a certification examination offered by a nationally recognized certification body approved by the board.

(b) For good cause, the board may waive the age requirement under subsection (a)(2).

Sec. 6. (a) The board shall issue a pharmacy technician in training permit to an individual who:

(1) applies to the board in the form and manner prescribed by the board;

(2) is at least eighteen (18) years of age;

(3) has not been convicted of a crime that has a direct bearing upon the individual's ability to practice competently;

(4) is not in violation of this chapter or rules adopted by the board under section 4 of this chapter; and

(5) has applied for certification under section 5 of this chapter.

(b) The board must approve an application for a pharmacy technician in training permit before the applicant may begin a pharmacy technician in training program.

(c) A pharmacy technician in training permit expires on the earliest of the following:

(1) The date the permit holder is issued a pharmacy technician certificate under this chapter.

(2) The date the board disapproves the permit holder's application for a pharmacy technician certificate under this chapter.

(3) The date the permit holder ceases to be enrolled in good standing in a pharmacy technician training program approved by the board. The graduation of a permit holder from a pharmacy technician program does not cause the permit to expire under this subdivision.

(4) Sixty (60) days after the date that the permit holder

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successfully completes a program approved by the board.

(5) Twelve (12) months after the date of issuance.

(d) For good cause, the board may waive the age requirement in subsection (a)(2).

Sec. 7. (a) A pharmacy technician certificate expires on a date set by the health professions bureau in each even-numbered year.

(b) An application for renewal of a pharmacy technician certificate must be accompanied by the appropriate fee.

(c) If a person fails to renew a pharmacy technician certificate, the certificate may be reinstated by meeting the requirements under IC 25-1-8-6.

(d) The board may require a person who applies for a certificate under subsection (c) to appear before the board and explain the reason why the person failed to renew a pharmacy technician certificate.

Sec. 8. A certified pharmacy technician may not perform the following activities:

(1) Providing advice or consultation with the prescribing practitioner or other licensed health care provider regarding the patient or the interpretation and application of information contained in the prescription or drug order, medical record, or patient profile.

(2) Providing advice or consultation with the patient regarding the interpretation of the prescription or the application of information contained in the patient profile or medical record.

(3) Dispensing prescription drug information to the patient.

(4) Final check on all aspects of the completed prescription and assumption of the responsibility for the filled prescription, including the appropriateness of the drug for the patient and the accuracy of the:

(A) drug dispensed;

(B) strength of the drug dispensed; and

(C) labeling of the prescription.

(5) Receiving a new prescription drug order over the telephone or electronically unless the original information is recorded so a pharmacist may review the prescription drug order as transmitted.

(6) Any activity required by law to be performed only by a pharmacist.

(7) Any activity that requires the clinical judgment of a pharmacist and is prohibited by a rule adopted by the board.



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1 **Sec. 9. (a) An individual may not practice as a pharmacy**
 2 **technician unless the individual is certified under this chapter.**

3 **(b) An individual may not act as a pharmacy technician in**
 4 **training unless the individual has obtained a permit under this**
 5 **chapter.**

6 **(c) An individual who knowingly violates this section commits**
 7 **a Class D felony.**

8 **Sec. 10. (a) If an individual violates this chapter, the attorney**
 9 **general, the board, or the prosecuting attorney of the county in**
 10 **which the individual violates this chapter may maintain an action**
 11 **in the name of the state to enjoin the individual from continued**
 12 **violation of this chapter.**

13 **(b) An injunction issued under this section does not relieve an**
 14 **individual person from criminal prosecution but is in addition to**
 15 **any remedy provided under criminal law.**

16 SECTION 4. IC 27-8-31 IS ADDED TO THE INDIANA CODE AS
 17 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 18 1, 2003]:

19 **Chapter 31. Mail Order and Internet Pharmacy Designation**

20 **Sec. 1. As used in this chapter, "insurer" refers to an insurer (as**
 21 **defined in IC 27-1-2-3) that issues a policy of accident and sickness**
 22 **insurance.**

23 **Sec. 2. As used in this chapter, "insured" means an individual**
 24 **who is entitled to coverage under a policy of accident and sickness**
 25 **insurance.**

26 **Sec. 3. As used in this chapter, "mail order or Internet based**
 27 **pharmacy" has the meaning set forth in IC 25-26-18-1.**

28 **Sec. 4. As used in this chapter, "policy of accident and sickness**
 29 **insurance" has the meaning set forth in IC 27-8-5-1.**

30 **Sec. 5. (a) An insurer that provides coverage for prescription**
 31 **drugs may designate a mail order or an Internet based pharmacy**
 32 **to provide prescription drugs to an insured.**

33 **(b) An insurer may not require an insured to obtain a**
 34 **prescription drug from a pharmacy designated under subsection**
 35 **(a) as a condition of coverage.**

36 SECTION 5. IC 27-13-37.5 IS ADDED TO THE INDIANA CODE
 37 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2003]:

39 **Chapter 37.5. Mail Order and Internet Pharmacy Designation**

40 **Sec. 1. As used in this chapter, "mail order or Internet based**
 41 **pharmacy" has the meaning set forth in IC 25-26-18-1.**

42 **Sec. 2. (a) A health maintenance organization may designate,**

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1 under an individual contract or a group contract that provides
2 coverage for prescription drugs, a mail order or an Internet based
3 pharmacy to provide prescription drugs to an enrollee.

4 (b) A health maintenance organization may not require an
5 enrollee to obtain a prescription drug from a pharmacy designated
6 under subsection (a) as a condition of coverage.

7 SECTION 6. [EFFECTIVE JULY 1, 2003] (a) IC 5-10-8-13, as
8 added by this act, applies to an employee health benefit plan that
9 is entered into, issued, delivered, amended, or renewed after June
10 30, 2003.

11 (b) IC 12-15-5-7, as added by this act, applies to a contract with
12 a managed care organization that is entered into, delivered,
13 amended, or renewed after June 30, 2003.

14 (c) IC 27-8-31, as added by this act, applies to a policy of
15 accident and sickness insurance that is issued, delivered, amended,
16 or renewed after June 30, 2003.

17 (d) IC 27-13-37.5, as added by this act, applies to an individual
18 contract or a group contract that is entered into, delivered,
19 amended, or renewed after June 30, 2003.

20 SECTION 7. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding
21 IC 25-26-19, as added by this act, an individual is not required to
22 be certified under IC 25-26-19, as added by this act, to practice as
23 a pharmacy technician before January 1, 2004.

24 (b) Notwithstanding IC 25-26-19, as added by this act, an
25 individual is not required to hold a permit under IC 25-26-19, as
26 added by this act, to act as a pharmacy technician in training
27 before January 1, 2004.

28 (c) This SECTION expires July 1, 2004.

29 SECTION 8. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding
30 IC 25-26-19-5(a)(6), as added by this act, an individual who applies
31 for certification as a pharmacy technician to the board of
32 pharmacy before July 1, 2004, may be certified as a pharmacy
33 technician without being required to meet the requirements of
34 IC 25-26-19-5(a)(6), as added by this act, if the individual has been
35 employed as a pharmacy technician for two (2) years before July
36 1, 2003.

37 (b) This SECTION expires July 1, 2004.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1757, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 10, after "Sec. 5." insert **"(a)"**.

Page 2, line 22, delete "been certified as competent by" and insert **"passed a certification examination offered by a nationally recognized certification body approved by the board."**

Page 2, delete line 23, begin a new paragraph and insert:

"(b) For good cause, the board may waive the age requirement under subsection (a)(2)."

Page 2, delete lines 31 through 32.

Page 2, line 33, delete "(5)" and insert **"(4)"**.

Page 2, line 35, delete "(6)" and insert **"(5)"**.

Page 3, between lines 12 and 13, begin a new paragraph and insert:

"(d) For good cause, the board may waive the age requirement in subsection (a)(2)."

Page 3, delete lines 26 through 32, begin a new line block indented and insert:

"(1) Providing advice or consultation with the prescribing practitioner or other licensed health care provider regarding the patient or the interpretation and application of information contained in the prescription or drug order, medical record, or patient profile.

(2) Providing advice or consultation with the patient regarding the interpretation of the prescription or the application of information contained in the patient profile or medical record.

(3) Dispensing prescription drug information to the patient.

(4) Final check on all aspects of the completed prescription and assumption of the responsibility for the filled prescription, including the appropriateness of the drug for the patient and the accuracy of the:

(A) drug dispensed;

(B) strength of the drug dispensed; and

(C) labeling of the prescription."

Page 3, between lines 36 and 37, begin a new line block indented and insert:

"(6) Any activity required by law to be performed only by a pharmacist.

(7) Any activity that requires the clinical judgment of a



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pharmacist and is prohibited by a rule adopted by the board."

Page 4, delete lines 2 through 16.

Page 4, line 17, delete "11." and insert **"10."**

Page 4, line 40, delete "IC 25-26-19-5(6)," and insert **"IC 25-26-19-5(a)(6),"**

Page 5, line 2, delete "IC 25-26-19-5(6)," and insert **"IC 25-26-19-5(a)(6),"**

Page 5, line 3, delete "five (5)" and insert **"two (2)"**.

and when so amended that said bill do pass.

(Reference is to HB 1757 as introduced.)

BROWN C, Chair

Committee Vote: yeas 11, nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1757, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, delete lines 36 through 40.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1757 as printed February 11, 2003.)

CRAWFORD, Chair

Committee Vote: yeas 27, nays 0.

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HB 1757—LS 7650/DI 107+



HOUSE MOTION

Mr. Speaker: I move that House Bill 1757 be amended to read as follows:

Page 1, line 10, delete "IC 25-26;" and insert "**this article;**".

Page 2, line 36, delete "paid the fee set by the board" and insert "**applied for certification**".

Page 2, line 36, delete "4" and insert "**5**".

Page 4, line 29, after "IC 25-26-19" insert ", **as added by this act,**".

(Reference is to HB 1757 as printed February 20, 2003.)

KLINKER

HOUSE MOTION

Mr. Speaker: I move that House Bill 1757 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-10-8-13 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 13. (a) As used in this section, "covered individual" means an individual who is entitled to coverage under an employee health benefit plan.**

(b) As used in this section, "employee health benefit plan" means a group plan of self-insurance, policy, or contract that:

- (1) provides coverage for prescription drugs; and**
- (2) is established, purchased, or entered into by an employer for the benefit of the employer's employees.**

(c) As used in this section, "employer" means the following:

- (1) A public employer.**
- (2) A state educational institution (as defined in IC 20-12-0.5-1).**

(d) As used in this section, "mail order or Internet based pharmacy" has the meaning set forth in IC 25-26-18-1.

(e) An employee health benefit plan that provides coverage for prescription drugs may designate a mail order or an Internet based pharmacy to provide prescription drugs to a covered individual.

(f) An employee health benefit plan may not require a covered individual to obtain a prescription drug from a pharmacy designated under subsection (e) as a condition of coverage.

HB 1757—LS 7650/DI 107+



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SECTION 2. IC 12-15-5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7. (a) The office or a managed care organization that has a contract with the office under IC 12-15-12 may designate a mail order or an Internet based pharmacy (as defined in IC 25-26-18-1) to provide prescription drugs to a recipient.**

(b) The office or a managed care organization described in subsection (a) may not require a recipient to obtain a prescription drug from a pharmacy designated under subsection (a)."

Page 1, line 10, delete "IC 25-26;" and insert "this article;".

Page 4, between lines 26 and 27, begin a new paragraph and insert: "SECTION 4. IC 27-8-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 31. Mail Order and Internet Pharmacy Designation

Sec. 1. As used in this chapter, "insurer" refers to an insurer (as defined in IC 27-1-2-3) that issues a policy of accident and sickness insurance.

Sec. 2. As used in this chapter, "insured" means an individual who is entitled to coverage under a policy of accident and sickness insurance.

Sec. 3. As used in this chapter, "mail order or Internet based pharmacy" has the meaning set forth in IC 25-26-18-1.

Sec. 4. As used in this chapter, "policy of accident and sickness insurance" has the meaning set forth in IC 27-8-5-1.

Sec. 5. (a) An insurer that provides coverage for prescription drugs may designate a mail order or an Internet based pharmacy to provide prescription drugs to an insured.

(b) An insurer may not require an insured to obtain a prescription drug from a pharmacy designated under subsection (a) as a condition of coverage.

SECTION 5. IC 27-13-37.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 37.5. Mail Order and Internet Pharmacy Designation

Sec. 1. As used in this chapter, "mail order or Internet based pharmacy" has the meaning set forth in IC 25-26-18-1.

Sec. 2. (a) A health maintenance organization may designate, under an individual contract or a group contract that provides coverage for prescription drugs, a mail order or an Internet based pharmacy to provide prescription drugs to an enrollee.

(b) A health maintenance organization may not require an

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enrollee to obtain a prescription drug from a pharmacy designated under subsection (a) as a condition of coverage.

SECTION 6. [EFFECTIVE JULY 1, 2003] (a) IC 5-10-8-13, as added by this act, applies to an employee health benefit plan that is entered into, issued, delivered, amended, or renewed after June 30, 2003.

(b) IC 12-15-5-7, as added by this act, applies to a contract with a managed care organization that is entered into, delivered, amended, or renewed after June 30, 2003.

(c) IC 27-8-31, as added by this act, applies to a policy of accident and sickness insurance that is issued, delivered, amended, or renewed after June 30, 2003.

(d) IC 27-13-37.5, as added by this act, applies to an individual contract or a group contract that is entered into, delivered, amended, or renewed after June 30, 2003."

Page 4, line 29, after "IC 25-26-19" insert ", as added by this act,".
Renumber all SECTIONS consecutively.

(Reference is to HB 1757 as printed February 20, 2003.)

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